IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

WP(C).No. 34355 of 2007(M)

OS.91/2004 of PRL.SUB COURT,TRIVANDRUM
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PETITIONER/PLAINTIFF:

M/S. I.B.S. SOFTWARE SERVICE GROUP (P)
HAVING ITS REGISTERED OFFICE AT 521-524/NILA
TECHNOPARK CAMPUS, THIRUVANANTHAPURAM,REPRESENTED
BY ITS POWER OF ATTORNEY HOLDER, SOMY CHACKO,
AGED 30 YEARS, W/O. BOBY J.MATHEW, LEGAL EXECUTIVE

BY ADV. SRI.NAIR AJAY KRISHNAN
SRI.R.T.PRADEEP

RESPONDENTS/DEFENDANTS:
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1. SARITHA V.U., AGED 27,
D/O. V. UNNIKRISHNAN, RESIDING AT NAVAKAM,
THALIYAL, KARAMANA P.O.,THIRUVANANTHAPURAM-695002.

2. V. UNNIKRISHNAN NAIR, AGED 60,
S/O. V.VASUDEVAN PILLAI, RESIDING AT -DO- -DO-.

3. J. VELUTHEERTHA, AGED 45 YEARS,
S/O. V.JANARDHANAN PILLAI, RESIDING AT THEERTHAM,
N.P.8/674, AZHANKAL JUNCTION, KARIMOM,
THIRUVANANTHAPURAM-2.

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 21/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N. KRISHNAN, J.

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W.P.C. NO. 34355 OF 2007

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Dated this the 21st day of November, 2007.

J U D G M E N T

This writ petition is filed seeking to set aside the order of the Subordinate Judge, Thiruvananthapuram in I.A.5394/07 in O.S.91/04. The said application was filed with a prayer to permit the power of attorney holder of the plaintiff to appear on behalf of the petitioner/plaintiff in the case. The Court below posed a question what is the authority of the Managing Director of the Company to execute another power of attorney without a resolution of the Company and that there is no resolution by the Company for appointing Smt.Somy Chacko as the power of attorney holder. It is true that the plaintiff did not produce any document but here, Ext.P1 is produced which is a minutes dated 27.9.99. As per that the Managing Director is given the power to conduct legal proceedings and initiate legal proceedings. Subsequently, it is also resolved that the

Managing Director is authorized to sub-delegate all or any of the powers conferred to other employees of the Company as he may think fit. Most probably it is on the basis of this resolution the power of attorney is executed and permission is sought for. Since the Court did not have the opportunity to see that resolution and as the other side is not before me at this admission stage, the only proper course for me is to set aside the order passed by the Court below and remit the matter back to the same Court for fresh consideration with a direction to the writ petitioner herein to produce the said minutes and after notice to the other side the matter be heard and disposed of by the Court below. I feel in such cases the Court need not enter into a finding whether a person is competent to give evidence as a witness for the reason. If it is not so the plaintiff can do so at his risk.

The writ petition is disposed of accordingly.

M.N. KRISHNAN, JUDGE.

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